

ESTTA Tracking number: **ESTTA620172**

Filing date: **08/07/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215598
Party	Defendant Mr. Armin Steuernagel
Correspondence Address	FRIEDRICH GRAF VON WESTPHALEN & Partner KAISER-JOSEPH-STRAßE 284 79098 FREIBURG, GERMANY
Submission	Other Motions/Papers
Filer's Name	Chester Rothstein
Filer's e-mail	crothstein@arelaw.com, rjain@arelaw.com, ptodocket@arelaw.com, bpowell@arelaw.com
Signature	/Chester Rothstein/
Date	08/07/2014
Attachments	1ReconsiderationRequest.pdf(403572 bytes) 2Declaration.pdf(1221465 bytes) 3Answer.pdf(254024 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DISNEY ENTERPRISES, INC.,	§	
	§	
Opposer,	§	Opposition No. 91215598
	§	
v.	§	Mark: MOGLI
	§	Serial No.: 79/122,040
ARMIN STEUERNAGEL,	§	Filed: July 27, 2012
	§	
Applicant.	§	

Applicant Armin Steuernagel (“Mr. Steuernagel”) seeks reconsideration and vacation of the Entry of Default, which was entered by the Trademark Trial and Appeal Board (the “Board”) on May 23, 2014, and the Judgment by Default, which was entered by the Board on July 8, 2014, in Application Serial No. 79/122,040 for the following mark:

Mogli

(the “Mogli Mark”).

This Request is accompanied by (i) the Declaration of Dr. Morton Douglas, an attorney-at-law and partner of Friedrich Graf von Westphalen & Partner, German counsel to Applicant, attesting to the facts in issue; and (ii) the proposed Answer to the Notice of Opposition.

**RECONSIDERATION OF THE DECISION IN INTER PARTES PROCEEDING
PURSUANT TO 37 C.F.R. 2.129(c)**

Applicant respectfully requests that the Board vacate the Entry of Default and the Judgment by Default and reinstate the above-referenced Application, which was deemed abandoned by such default, upon timely submission of evidence that the abandonment was

unintentional. *See* 37 C.F.R. § 2.129(c); giving Applicant “one month” from the Decision of the Board to file a Request for Reconsideration.

I. Standard of Law

According to the Federal Rules of Civil Procedure, “[t]he court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 60(b).” Fed. R. Civ. P. 55(c). Fed. R. Civ. P. 60(b) provides that the court may relieve a party from a final judgment for various reasons, including, but not limited to, “mistake, inadvertence, surprise, or excusable neglect.”

Here, the Default was occasioned by the fact that neither Applicant nor its agents received the documents from the Board which started the time for filing the Answer. In fact, Applicant’s attorneys received direct instructions from the World Intellectual Property Organization (“WIPO”) that “[y]ou need not file a response until you receive that order [from the TTAB].” Accordingly, good cause is shown as the failure to submit an Answer to the Notice of Opposition was unintentional as explained herein.

II. Statement of Relevant Facts

The German-based law firm of Friedrich Graf von Westphalen & Partner (the “Graf Firm”) filed an International Registration (No. 1140073), registered on July 27, 2012, on behalf of Mr. Steuernagel for the Mogli Mark, *inter alia* designating under the Madrid Protocol the United States of America. *See* Declaration of Dr. Morton Douglas (“Douglas Decl.”) ¶ 2, submitted with this Request for Reconsideration.

Sometime in October 2013, the Graf Firm received a notification from the Board informing that Disney Enterprises, Inc. (“Disney”) requested and was granted an extension of time until January 22, 2014 to oppose the Mogli Mark. *See* Douglas Decl. ¶ 3. Similarly,

sometime in February 2014, the Graf Firm received another notification from the Board informing them that Disney requested and was granted another extension of time until March 23, 2014 to oppose the Mogli Mark. *See* Douglas Decl. ¶ 4. The next notification the Graf Firm received was the Notice of Abandonment from the Commissioner for Trademarks dated July 8, 2014. *See* Douglas Decl. ¶ 5.

Disney filed its Notice of Opposition against the Mogli Mark on March 24, 2014, and soon thereafter, Disney served the Graf Firm with a copy of the Notice of Opposition on or about March 24, 2014. *See* Douglas Decl. ¶ 6. The notification served by Disney did not instruct or require the Graf Firm to take any action at that time. *See* Douglas Decl. ¶ 7.

According to ttabvue.uspto.gov, the Board apparently issued an order on March 26, 2014 setting discovery and trial dates and requiring an answer from Mr. Steuernagel by May 5, 2014. **The Graf Firm never received this March 26, 2014 order from the Board.** *See* Douglas Decl. ¶ 8. Further, according to ttabvue.uspto.gov, the Board apparently entered a notice of default against Mr. Steuernagel on May 23, 2014. **The Graf Firm never received this May 23, 2014 notice from the Board.** *See* Douglas Decl. ¶ 9.

In fact, on May 19, 2014, WIPO, which handles Madrid Protocol filings, issued a Notification to the Graf Firm which enclosed a copy of the receipt of the Notice of Opposition, but the Notification specifically instructed, on Page 9, that the Graf Firm need not take action until expressly instructed by the Board in a separate writing. The Notification stated:

You must file a response, and serve the opposing party, within forty days from the date of the TTAB order setting discovery and trial dates. **You will receive that order directly from the TTAB, and the forty day period begins on the mailing date of that order. You need not file a response until you receive that order.**

(Emphasis added). *See* Douglas Decl. ¶ 10, which attaches a true and correct copy of the WIPO May 19, 2014 Notification.

The Graf Firm was not made aware that the time to answer the Notice of Opposition had already started to run, and then expired, until the Graf Firm received the July 8, 2014 Notice of Abandonment. *See* Douglas Decl. ¶ 11.

III. Evidence that Neither the Notice of Opposition Nor the Notice of Default Were Received From The Board

It is the practice of the Graf Firm's Mail Room to stamp with the date received all correspondence received from government offices, including but not limited to the U.S. Patent and Trademark Office ("USPTO") and then to deliver the original document to the Graf Firm attorney who is responsible for the matter or to whom the correspondence is addressed. *See* Douglas Decl. ¶ 12. The original correspondence is then reviewed and checked by the Graf Firm attorney and his legal assistant for important dates and other information. *See* Douglas Decl. ¶ 13. Different from the USPTO's practice, important dates and deadlines are often not expressly mentioned in notifications, but have to be calculated by the attorney based on the date of receipt of a notification. For example, if a deadline of 2 weeks from the date of receipt is granted, the attorney has to check and calculate the deadline. This date is also calculated and verified by the responsible legal assistant. *See* Douglas Decl. ¶ 13. The legal assistant then inputs the important dates, deadlines and information into the Graf Firm docketing software. *See* Douglas Decl. ¶ 14. By having both the attorney and the legal assistant review the government office's correspondence, the Graf Firm seeks to avoid missing important deadlines and jeopardizing trademark application and registration statuses. *See* Douglas Decl. ¶ 15. However, in this case, the Graf Firm **did not receive** the March 26, 2014 Board order requiring an answer from Mr. Steuernagel by May 5, 2014. *See* Douglas Decl. ¶ 16. As the order had not been received by

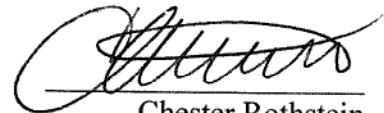
the Graf Firm, the deadline for answering the Notice of Opposition was never docketed, as it ordinarily would have been. *See* Douglas Decl. ¶ 17.

IV. Relief Requested by Applicant

Accordingly, in view of the foregoing facts and as set forth in the accompanying Declaration, Applicant respectfully submits that it has shown good cause to vacate the Entry of Default and the Judgment by Default and requests that the Decision of the Board be withdrawn; the Entry of Default be withdrawn; the Judgment by Default be withdrawn; the attached Answer to the Notice of Opposition be accepted as timely filed and entered in the Record; and new litigation dates be issued by the Board.

Dated: August 7, 2014

Respectfully submitted,



Chester Rothstein
Reena Jain
Amster Rothstein & Ebenstein LLP
90 Park Avenue
New York, NY 10016
Telephone: (212) 336-8050
Facsimile: (212) 336-8001
crothstein@arelaw.com

Attorney for Applicant
Armin Steuernagel

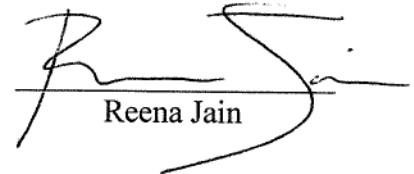
CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing RECONSIDERATION OF THE DECISION IN INTER PARTES PROCEEDING PURSUANT TO 37 C.F.R. 2.129(c) was served upon Opposer, by causing a copy thereof to be delivered to Opposer's counsel (i) via First Class Mail, postage prepaid affixed thereto, and (ii) via e-Mail transmission, as follows:

Linda K. McLeod
Kelly IP LLP
1330 Connecticut Avenue NW, Suite 300
Washington, DC 20036

e-Mail: linda.mcleod@kelly-ip.com
larry.white@kelly-ip.com
docketing@kelly-ip.com

Dated: August 7, 2014


Reena Jain

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DISNEY ENTERPRISES, INC.,	§	
	§	
Opposer,	§	Opposition No. 91215598
	§	
v.	§	Mark: MOGLI
	§	Serial No.: 79/122,040
ARMIN STEUERNAGEL,	§	Filed: July 27, 2012
	§	
Applicant.	§	

**DECLARATION IN SUPPORT OF RECONSIDERATION OF
THE DECISION IN INTER PARTES PROCEEDING
PURSUANT TO 37 C.F.R. 2.129(c)**

I, **Dr. Morton Douglas**, declare the following:

1. I am an employee of the German-based law firm Friedrich Graf von Westphalen & Partner (the “Graf Firm”), which represents Applicant. I have worked at the Graf Firm for 9 ½ years and currently hold the title Attorney-at-Law, Partner.
2. The Graf Firm filed an International Registration (No. 1140073), registered on July 27, 2012, on behalf of Mr. Steuernagel for the MOGLI Mark, *inter alia* designating under the Madrid Protocol the United States of America.
3. Sometime in October 2013, the Graf Firm received a notification from the Board informing that Disney Enterprises, Inc. (“Disney”) requested and was granted an extension of time until January 22, 2014 to oppose the MOGLI Mark.
4. Similarly, sometime in February 2014, the Graf Firm received another notification from the Board informing them that Disney requested and was granted another extension of time until March 23, 2014 to oppose the MOGLI Mark.

5. The next notification the Graf Firm received was the Notice of Abandonment from the Commissioner for Trademarks dated July 8, 2014.
6. Disney filed its Notice of Opposition against the MOGLI Mark on March 24, 2014, and soon thereafter, Disney served the Graf Firm with a copy of the Notice of Opposition on or about March 24, 2014.
7. The notification served by Disney did not instruct or require the Graf Firm to take any action at that time.
8. According to ttabvue.uspto.gov, the Board apparently issued an order on March 26, 2014 setting discovery and trial dates and requiring an answer from Mr. Steuernagel by May 5, 2014. The Graf Firm never received this March 26, 2014 order from the Board.
9. Further, according to ttabvue.uspto.gov, the Board apparently entered a notice of default against Mr. Steuernagel on May 23, 2014. The Graf Firm never received this May 23, 2014 notice from the Board.
10. In fact, on May 19, 2014, the World Intellectual Property Organization ("WIPO"), which handles Madrid Protocol filings, issued a Notification to the Graf Firm which enclosed a copy of the receipt of the Notice of Opposition, but the Notification specifically instructed, on Page 9, that the Graf Firm need not take action until expressly instructed by the Board in a separate writing. The Notification stated:

You must file a response, and serve the opposing party, within forty days from the date of the TTAB order setting discovery and trial dates. You will receive that order directly from the TTAB, and the forty day period begins on the mailing date of that order. You need not file a response until you receive that order.
11. The Graf Firm was not made aware that the time to answer the Notice of Opposition had already started to run, and then expired, until the Graf Firm received the July 8, 2014 Notice of Abandonment.

12. It is the practice of the Graf Firm's Mail Room to stamp with the date received all correspondence received from government offices, including but not limited to the U.S. Patent and Trademark Office ("USPTO") and then to deliver the original document to the Graf Firm attorney who is responsible for the matter or to whom the correspondence is addressed.
13. The original correspondence is then reviewed and checked by the Graf Firm attorney and his legal assistant for important dates and other information. Different from the US PTO's practice important dates and deadlines are often not expressly mentioned in notifications but have to be calculated by the attorney based on the date of receipt of a notification. For example, if a deadline of 2 weeks from the date of receipt is granted, the attorney has to check and calculate the deadline. This date is also calculated and verified by the responsible legal assistant.
14. The legal assistant then inputs the important dates, deadlines and information into the Graf Firm docketing software.
15. By having both, the attorney and the legal assistant, review the government office's correspondence, the Graf Firm seeks to avoid missing important deadlines and jeopardizing trademark application and registration statuses.
16. However, in this case, the Graf Firm did not receive the March 26, 2014 Board order requiring an answer from Mr. Steuernagel by May 5, 2014.

Opposition No. 91215598

17. As the order had not been received by the Graf Firm, the deadline for answering the Notice of Opposition was never docketed, as it ordinarily would have been.

18. In view of the foregoing circumstances, it is respectfully submitted that the failure to timely answer the Notice of Opposition was unintentional.

The undersigned, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

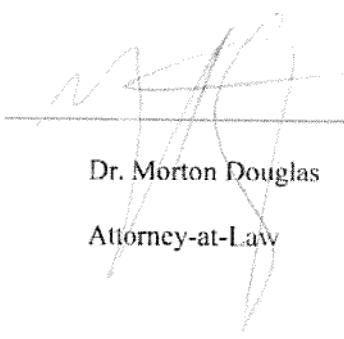
Executed on: August 7, 2014

Respectfully submitted,

By:

Name:

Title:


Dr. Morton Douglas

Attorney-at-Law

By registered mail

Friedrich Graf von Westphalen
& Partner
Kaiser-Joseph-Straße 284
79098 Freiburg
Germany

Our reference: 812/812476401

Geneva, 19/05/2014

International registration No. 1140073 (MOGLI)

Madam,
Sir,

In accordance with Rule 17(4) of the Common Regulations,
please find herewith a copy of a notification of provisional
refusal of protection concerning the above-mentioned
international registration.

Contracting Party whose Office issued the notification	: US
Date on which the notification was sent to WIPO (mailing date)	: 08/05/2014
Date of receipt by WIPO	: 08/05/2014
Date of notification by WIPO to the holder	: 19/05/2014

International Bureau of the World Intellectual
Property Organization (WIPO)

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>

United States Patent and Trademark Office	TRADEMARK TRIAL AND APPEAL BOARD P.O. Box 1451 Alexandria, VA 22313 (571) 272-8500
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Notice of Opposition

(Notification of Provisional Refusal Based on an Opposition)

Notice is hereby given that the following party opposes indicated request for extension of protection to the United States.

Opposer Information

Name	Disney Enterprises, Inc.
Address	500 South Buena Vista Street Burbank, CA 91521 UNITED STATES

Attorney information	LINDA K MCLEOD KELLY IP LLP 1330 CONNECTICUT AVENUE NW, SUITE 300 WASHINGTON, DC 20036 UNITED STATES linda.mcleod@kelly-ip.com, larry.white@kelly-ip.com, docketing@kelly-ip.com
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Opposed Request for Extension of Protection to U.S.

U.S. Serial No.	79122040	Publication date	09/24/2013
Opposition Filing Date	03/24/2014	Opposition Period 1 Ends	03/23/2014
Name of Holder of International Registration	Mr. Armin Steuernagel Kampsriede 11 DEX DEX		

Goods/Services Affected by Opposition

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Perfumery, essential oils, cosmetics, hair lotions; dentifrices; non-medicated bath preparations and bath salts; preparations in the nature of body care lotions and creams, shower gels, shampoos, conditioners, non-medicated lip balm, soaps, non-medicated sun care preparations for infants and babies
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Class 005. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Food for babies; medicated bath preparations and salts; textile diapers for babies; nutritional supplements; dietetic preparations adapted for medical use; dietary food supplements; pharmaceutical preparations in the nature of a powder for wounds

Class 012. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Baby carriages, accessories especially designed for baby carriages, namely, covers, foot muffs and umbrellas for baby carriages, car and bicycle safety seats for children; bicycles

Class 020. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Furniture; high chairs for children; rockers for babies; walkers aids for children and babies; travel beds for children and babies; bassinets; baby changing tables and mats; wind chimes decoration; nappy changing tables; mattresses; infant playpens

Class 021. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Household and kitchen utensils and containers not of previous metal or coated therewith, namely, containers for kitchen use and cooking utensils in the nature of graters, spatulas and strainers; beverage glassware, porcelain mugs and plates and earthenware basins; boxes of glass; food storage containers in the nature of boxes for bakery goods and confectionery; lunch boxes; cups; heaters for feeding bottles, non-electric; baby baths being portable; insulating flasks, insulated containers for beverage cans for domestic use; toothbrushes; dishware; children's crockery, namely, pots, dishes, drinking cups and saucers, bowls, serving bowls and trays

Class 028. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Games in the nature of board games, card games, dice games, educational card games, electronic games for the teaching of children, electronic interactive board games for use with external monitor, equipment sold as a unit for playing board games, equipment sold as a unit for playing card games, equipment sold as a unit for playing a memory game, equipment sold as a unit for playing action-type target games, equipment sold as a unit for playing crap games, game cards, marbles for games, memory games, nets for ball games, puzzle games, playthings in the nature of toy cars, dolls, soft toys, stuffed animals, puppets; gymnastic apparatus; sports articles in the nature of balls, outdoor activity game equipment for playing games, rattles for babies being playthings; building blocks toys; dolls' beds; plush toys; children's toy vehicles

Class 029. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Eggs, milk and milk products excluding ice cream, ice milk and frozen yoghurt; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; milk, yoghurt, curd cheese and cream snacks for dessert

Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Processed cereals; flour and preparations made from cereals, namely, cereal based snack bars, cereal cakes, cereal cookies, cereal based snack food; bread, pastry, frozen and baked confectionery; sweets, candy, gum sweets; sugar confectionery, toffees; edible ices; chocolate bars, products made from chocolate, namely, chocolate candies and chocolate bars; cereal-bars; muesli and muesli bars; cacao beverages with milk, chocolate beverages with milk, chocolate based beverages, caramel based beverages, rice pudding, semolina pudding, puddings; prepared sweet sauces; puddings in powder form; desserts, mainly of semolina pudding and/or flour

Class 032. First Use: 0 First Use In Commerce: 0



All goods and services in the class are opposed, namely: Mineral waters and aerated waters and

non-alcoholic fruit juice beverages; syrups and preparations for making fruit drinks, whey beverages; non-alcoholic cocktails

Grounds for Opposition

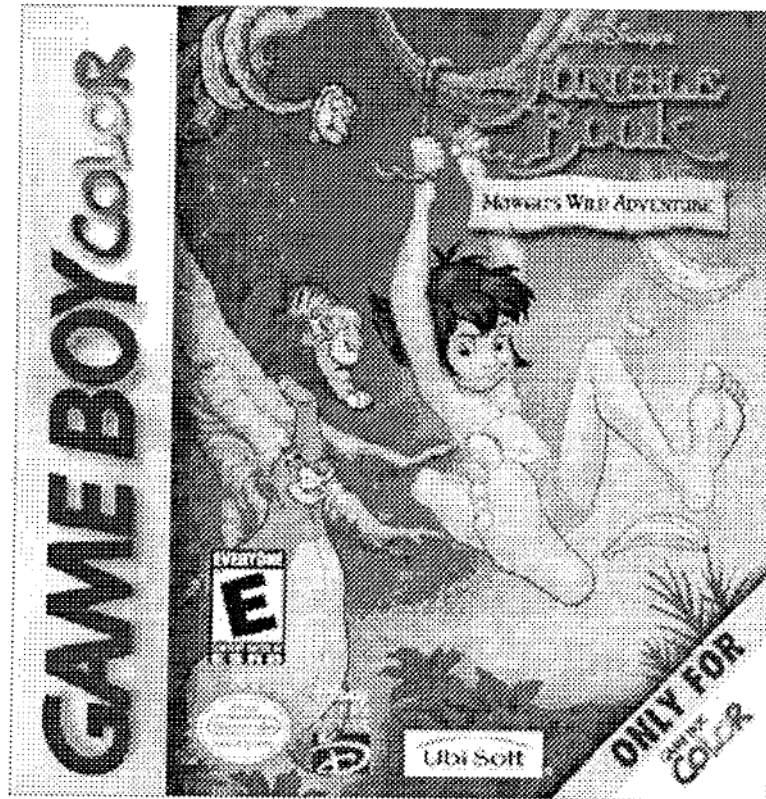
Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark	 		
Goods/Services	entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark



Goods/Services

entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.

**U.S. Application/
Registration No.**

NONE

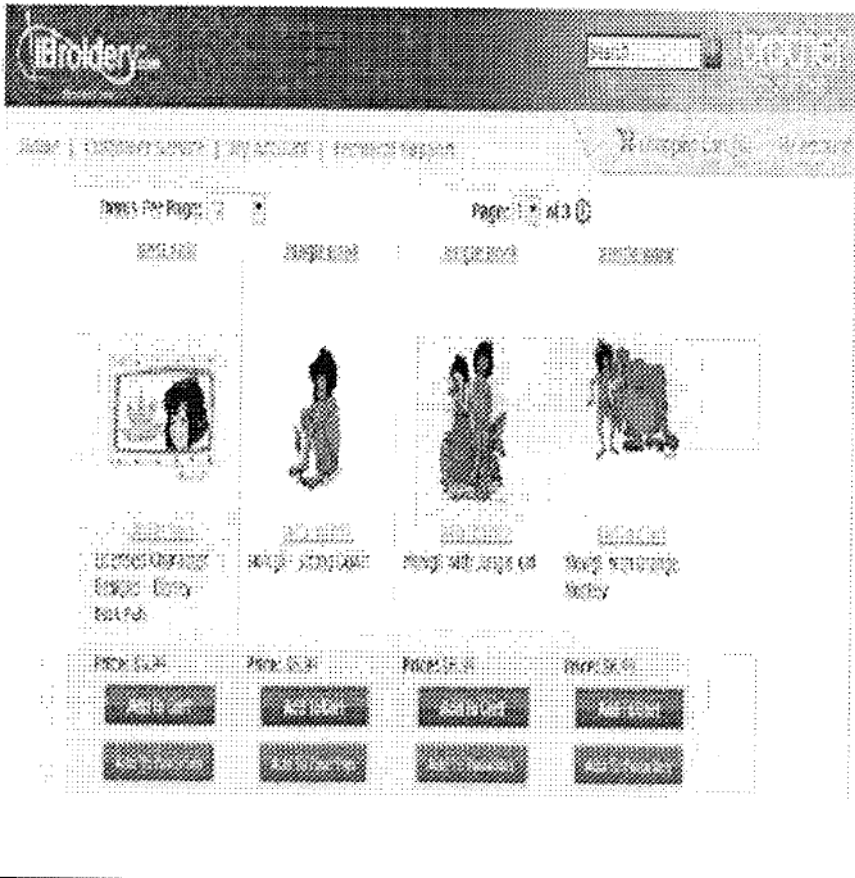
Application Date

NONE

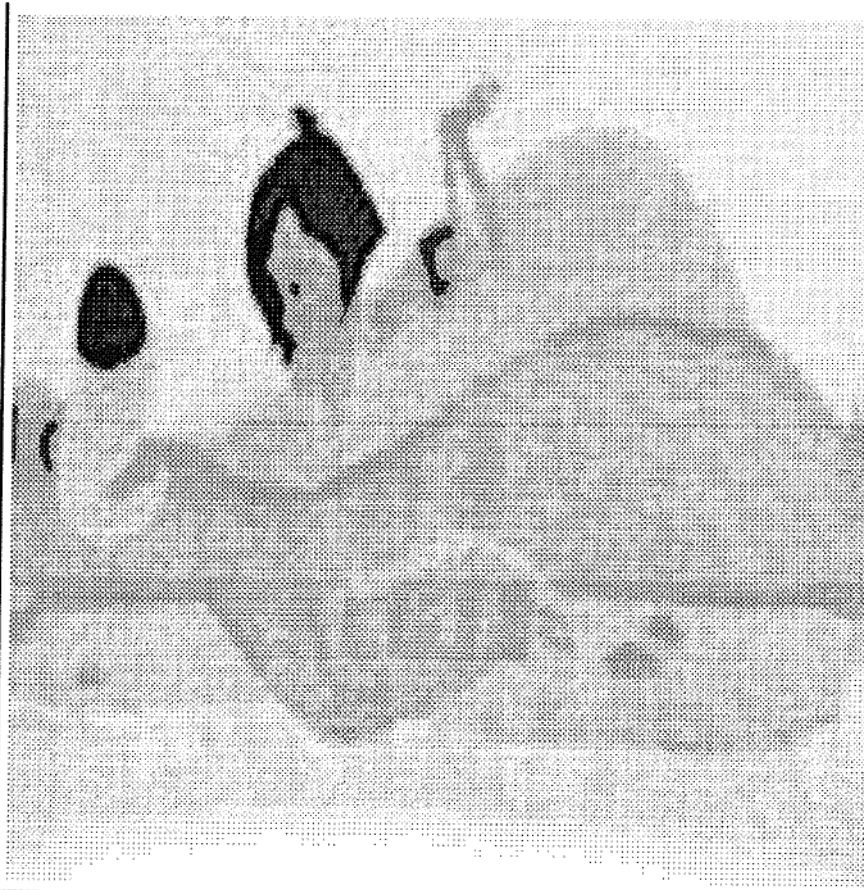
Registration Date

NONE


Design Mark

	
Goods/Services	entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.


U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			

	
Goods/Services	entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			

	
Goods/Services	entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			

	
Goods/Services	entertainment services, films, prerecorded DVDs, CDs, videos, video games, online games, toys, toy figures, figurines, embroidery, ornamental pins, books, greeting cards, mugs, clothing, pillows, and linens.

Attachments	MOWGLI resized-383662.jpg image 2-383662.jpg image 3-383662.jpg image 4-383662.jpg image 5-383662.jpg image 6-383662.jpg
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Tracking number: ESTTA594323

¹The maximum possible opposition period is 180 days from publication, and other oppositions may therefore be filed before the end of that period.

Your response must go to the Trademark Trial and Appeal Board (TTAB) of the United States Patent and Trademark Office.

You must file a response, and serve the opposing party, within forty days from the date of the TTAB order setting discovery and trial dates. You will receive that order directly from the TTAB, and the forty day period begins on the mailing date of that order. You need not file a response until you receive that order.

You may file your answer through an attorney permitted to practice before the United States Patent and Trademark Office in trademark cases. While an attorney is not required, your answer and all other papers in this proceeding must conform to the applicable United States rules and statutes. Foreign attorneys may not represent parties before the TTAB, unless specifically permitted to do so under Patent and Trademark Rule 10.14(c). The TTAB cannot assist you in choosing an attorney.

*United States Patent and Trademark Office
Trademark Trial and Appeal Board*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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DISNEY ENTERPRISES, INC.,	§	
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Opposer,	§	Opposition No. 91215598
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	§	
Applicant.	§	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant Armin Steuernagel ("Mr. Steuernagel") responds to Opposer Disney Enterprises, Inc.'s ("Disney") Notice of Opposition ("Opposition") as follows. All averments are denied unless specifically admitted herein.

I. Opposer and its MOWGLI Character, Name, and Mark

1. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Opposition, and therefore, denies the same.
2. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Opposition, and therefore, denies the same.
3. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Opposition, and therefore, denies the same.

4. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Opposition, and therefore, denies the same.
5. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Opposition, and therefore, denies the same.
6. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Opposition, and therefore, denies the same.
7. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Opposition, and therefore, denies the same.
8. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Opposition, and therefore, denies the same.
9. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the Opposition, and therefore, denies the same.
10. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 of the Opposition, and therefore, denies the same.

11. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Opposition, and therefore, denies the same.

12. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Opposition, and therefore, denies the same.

II. Applicant and its MOGLI Mark

13. Applicant admits paragraph 13 of the Opposition.

14. Applicant admits paragraph 14 of the Opposition.

15. Applicant admits-in-part and denies-in-part paragraph 15 of the Opposition. Applicant denies that Opposer filed an extension of time to oppose on January 22, 2014. Opposer filed extensions of time to oppose on September 24, 2013 and January 21, 2014.

III. Likelihood of Confusion, 15 U.S.C. § 1052(d)

16. Applicant incorporates by reference, paragraphs 1 through 15 herein.

17. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the Opposition, and therefore, denies the same.

18. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Opposition, and therefore, denies the same.

19. Applicant denies each and every allegation contained in paragraph 18 of the Complaint.

20. Applicant denies each and every allegation contained in paragraph 19 of the Complaint.

21. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of the Opposition, and therefore, denies the same.

22. Applicant denies each and every allegation contained in paragraph 21 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposer has failed to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's Mark is invalid in that Opposer does not use it as a trademark.

THIRD AFFIRMATIVE DEFENSE

Opposer has failed to adequately maintain, police or enforce its alleged rights in its Mark against other third party applicants.

FOURTH AFFIRMATIVE DEFENSE

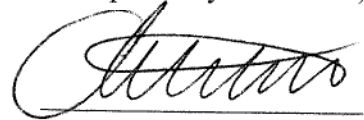
Applicant reserves the right to assert additional Affirmative Defenses in the event discovery indicates that they are appropriate.

* * *

WHEREFORE, Applicant prays that this Opposition be dismissed and that the subject applicant proceed to registration, and for such other and further relief as this Board deems just and proper.

Dated: August 7, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chester Rothstein', written over a horizontal line.

Chester Rothstein

Reena Jain

Amster Rothstein & Ebenstein LLP

90 Park Avenue

New York, NY 10016

Telephone: (212) 336-8000

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